IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 21ST DECEMBER 2006 / 30TH AGRAHAYANA 1928

Crl.MC.No. 4105 of 2006()

OS.1078/1993 of MUNSIFF COURT, NEYYATTINKARA
CRMC.2781/2006 OF SESSIONS COURT, THIRUVANANTHAPURAM
CRIME NO.506/2006 OF VELLARADA POLICE STATION

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PETITIONER/ACCUSED:

PRABHAVATY AMMA, D/O.SARASWATHY AMMA,
VIBHU VIHAR, MULLALU VILA, KARIKKAMANCODE,
KUNNATHUKAL VILLAGE, NEYYATTINKARA.

BY ADV. SRI.G.SUDHEER

RESPONDENTS/COMPLAINANT:

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.THOMAS JOHN AMBOOKEN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.NO.4105 OF 2006

Dated this the 21st day of December, 2006.

ORDER

Against the petitioner, an F.I.R has been registered alleging commission of the offence punishable under Section 3(1) of the Scheduled Cast/Scheduled Tribe Prevention of Atrocities Act. According to the petitioner, the petitioner faces a totally false and vexatious allegation. There are certain disputes between the petitioner and some people of the locality about the cutting open of a road through the property of the petitioner. The petitioner had apprehended such false allegations being raised against her as a sequel to the said dispute. Therefore she had much prior to the registration of the F.I.R in this case, complained to the superior officers of the police that an attempt is afoot to falsely implicate her on the basis of such totally unsustainable allegations. Her worst apprehension has now come true. An F.I.R has been registered under Section 3(1) of the Scheduled Cast/Scheduled Tribe Prevention of Atrocities Act against her. The petitioner is willing to co-operate with the investigators. She is willing to surrender before the learned Magistrate. She apprehends that her application for bail may not be considered

favourably and expeditiously by the learned Magistrate. It is, in these circumstances, that the petitioner has come to this Court with this petition under Section 482 Cr.P.C. An earlier application for anticipatory bail was dismissed by the learned Sessions Judge in view of Section 18 of the Scheduled Cast/ Scheduled Tribe Prevention of Atrocities Act. The learned counsel for the petitioner prays that appropriate directions may be issued under Section 482 Cr.P.C to save the petitioner from the undeserved trauma of arrest and detention.

2. I am certainly of the opinion that the petitioner, a woman, must appear before the learned Magistrate and apply for bail in the regular and ordinary course. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously.

3. This Court has time and again repeated that the mere fact that the offence under Section 3(1) of the Scheduled Cast Scheduled Tribe Prevention of Atrocities Act is triable by Court of Sessions does not divest or deprive the Magistrate of the power, duty and responsibility to consider such application for bail on merits. Reference can be made advantageously to the decision in **Ali v. State of Kerala** [2000 (2) K.L.T 280], **Shanu**

v. State of Kerala [2000 (3) K.L.T 452], **Krishnakumar v. State of Kerala** [2005(1) KLD (Crl.) 42] and **P.P.Kader v. State of Kerala** [2005(1) KLD (Crl.) 250]. Regarding the need for expeditious disposal of application for bail by a person who surrenders before the learned Magistrate, sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339]. Every court must consider such applications in the light of the decisions referred above expeditiously. No further or specific directions are necessary.

4. In the result, this Crl.M.C is dismissed. But I proceed to observe that the learned Magistrate must consider the application for bail if filed by the petitioner after giving sufficient prior notice to the Prosecutor in charge of the case, on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. Hand over a copy of this order to the learned counsel for the petitioner today itself.

R.BASANT
JUDGE

rtr/